

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

TIME 9:49 (OPEN)

DATE 9/22/05

JUDGE David Folsom

REPORTER Libby Crawford

TIVO INC.

§
§
§
§
§

V.

CIVIL ACTION NO. 2:04CV1

ECHOSTAR COMM.

HEARING ON MOTIONS IN LIMINE

ATTORNEYS FOR PLAINTIFF: Samuel Baxter; Garret Chambers; Perry Goldberg;
Morgan Chu; Michele Armond;

ATTORNEYS FOR DEFENDANT: Damon Young; John Pickett; Harold McElhinny;
Rachel Krevans; Kristina Paszek; Karl Kramer;

LAW CLERK: Courtney Towle and Tripp Fussell

THIS DAY CAME THE PARTIES BY THEIR ATTORNEYS AND THE FOLLOWING
PROCEEDINGS WERE HAD:

9:49 ct opens; ct/ add ptys; 9:49 Baxter/ TiVo's 1st motion in limine; 9:54 McElhinny/ responds;
ct/ concern that one part was in bankruptcy; McElhinny/ responds; 9:58 Baxter/ reply; 10:00
Goldberg/ TiVo's 2nd motion in limine; 10:01 McElhinny/ responds; ct/ stipulation needs to be
available by 10/4th; 10:01 Goldberg/add the ct when this issue needs to be tried, during times when
jury is unavailable or maybe while they are deliberating; 10:02 Armond/argues motion to exclude;
10:06 McElhinny/ responds; 10:07 ct/ why do you feel this is an issue for a motion in limine; 10:07
Armond/ reply; 10:08 Goldberg/ TiVo's 4th motion in limine; 10:09 McElhinny/ responds; 10:11
Goldberg/ reply; 10:12 Armond/ TiVo's 5th motion in limine; 10:15 McElhinny/ responds; 10:18
Armond/ reply; 10:20 Goldberg/ argues motion to exclude which relates to 2 different items of prior
art; 10:25 McElhinny/ responds; 10:35 Goldberg/ reply; 10:42 McElhinny/ sur-reply; 10:44
Goldberg/ responds; 10:45 ct/ does that conclude TiVo's motions; Goldberg/ yes your honor; 10:46
McElhinny/ Echostar's 1st Motion in Limine; 10:47 Goldberg/ would like this portion of the
transcript sealed; ct/ that is fine; 10:47 McElhinny/ continues with Echostar's 1st Motion in Limine;
10:54 Chambers/ responds; 11:01 McElhinny/ reply; 11:05 recess; 11:18 ct resumes; Goldberg/
remaining portion of transcript does not need to be sealed; 11:19 McElhinny/ Echostar's 2nd Motion

in Limine; 11:24 Goldberg/ responds; 11:33 McElhinny/ reply; 11:40 Goldberg/ responds; 11:42 McElhinny/ reply; 11:43 McElhinny/ Echostar's 3rd Motion in Limine; 11:50 Goldberg/ responds; 11:59 McElhinny/ reply; 12:01 Goldberg/ responds; 12:02 McElhinny/ responds; 12:02 recess; 1:27 McElhinny/ Echostar's 4th Motion in Limine; 1:32 Chambers/ responds; 1:39 McElhinny/ reply; 1:42 Chambers/ responds; 1:44 McElhinny/ reply; ct/ next motion; 1:44 McElhinny/ experts on willfulness; 1:48 Goldberg/ responds; 1:51 McElhinny/ reply; 1:52 McElhinny/ Echostar's 6th motion in limine; 1:55 Armond/ responds; 1:58 McElhinny/ reply; 2:00 Armond responds; 2:04 McElhinny/ with cts permission would like to skip motion # 7 and address Echostar's 8th motion in limine; 2:15 Baxter/ responds; 2:24 McElhinny/ reply; 2:28 McElhinny/ Echostar's 9th motion in limine; 2:29 McElhinny/ address' another motion (atty didn't specify which motion); 2:31 ct/ appreciates everyone's comments; 2:31 McElhinny/ questions about 10/4th day and SJ pending motions and additional issues that need to be brought to the cts attention; ct/ will take up exhibit issues; jury selection; when list will be releases; ptys request for questioning the panel; McElhinny/ do we need to submit an agenda; ct/ not necessary but if issues that you would like to take up notify ct by next Friday and notify other pty; McElhinny/ has filed deposition transcripts; ct/ will take up all those topics and determine how to work through those; where are ptys on the FPTO; Goldberg/ responds; McElhinny/ both ptys have worked together and have reduced exhibit list; ct/ ruling on these issues will also affect exhibits; any other matters; 2:36 recess;

David J. Maland, Clerk
by Mel Martin
Courtroom Deputy

2:36 adjourned